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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/800,703	03/16/2004	Daniel Cheminaiis	P24982	1778
7055 7590 01/12/2010 GREENBLUM & BERNSTEIN, P.L.C. 1950 ROLAND CLARKE PLACE RESTON, VA 20191				
EXAMINER BOYCE, ANDRE D				
ART UNIT		PAPER NUMBER		
3623				
NOTIFICATION DATE		DELIVERY MODE		
01/12/2010		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

gbpatent@gbpatent.com  
pto@gbpatent.com

**Advisory Action  
Before the Filing of an Appeal Brief**

**Application No.**

10/800,703

**Applicant(s)**

CHEMINAIS ET AL.

**Examiner**

Andre Boyce

**Art Unit**

3623

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 08 December 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☒ Applicant's reply has overcome the following rejection(s): Claims 1-6 rejection under 35 U.S.C. 101.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 1-20.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_  
13. ☐ Other: \_\_\_\_\_.

/Andre Boyce/  
Primary Examiner, Art Unit 3623

Continuation of 11, does NOT place the application in condition for allowance because: Applicant's claims 7-17 remain rejected under 35 USC 112, second paragraph, as being indefinite, since the claims seem to be directed towards two (2) different statutory classes, i.e., a system and tangible medium. Contrary to Applicant's assertion, program instructions stored on a tangible medium is actually a product, not a system. Moreover, if we were to follow Applicant's flawed logic, claims 18-20 would also be considered system claims, which they are not. They are product claims.

In addition, the Examiner continues to respectfully disagree with Applicant's assertion that Grettve et al fails to disclose creating a list of product types required for each project, producing at least one table for each product type for a sequence of time slices having a chosen time origin, a first running total for each time slice from the time origin up to a time slice of interest of a first quantity associated with the dated requirements of the client site, a second running total for each time slice from a time origin up to a time slice of interest, of a second quantity associated with the stock and the purchases, searching the at least one table for times at which the second running total is less than the first running total which is indicative of a risk of at least one of a supply shortage and a necessity of initiating supply, and issuing an alert to a user when the risk of the at least one of a supply shortage and a necessity of initiating supply is determined.

Grettve et al disclose a supply chain control system, including a supplier delivering goods to producers (column 3, lines 4-10), wherein obtaining an efficient logistics control and production scheduling and an equalised flow from a source to a destination in a supply chain in order to balance demand for products with plant capacity and availability of inputs (column 1, lines 50-54) is indeed a "project." In addition, Grettve et al indeed discloses creating a list of product types required for each project, i.e., customer product information, including customer product balance data, which inherently includes product types (column 3, lines 43-45). Moreover, Grettve et al disclose producing at least one table for each product type for a sequence of time slices having a chosen time origin (i.e., determining and storing a demand time for a refilling of balance of customer storage based on customer product information, column 3, lines 56-60, wherein the customer product information, including customer product balance data, which inherently includes product types and the demand time is the chosen time origin), the at least one table having: a first running total for each time slice from the time origin up to a time slice of interest of a first quantity associated with the dated requirements of the client site (i.e., demand quantity to be filled at the demand time, column 4, lines 31-32); and a second running total for each time slice from a time origin up to a time slice of interest, of a second quantity associated with the stock and the purchases, wherein the purchases are shifted timewise according to a delay in time (i.e., customer virtual product balance, representing the current product balance together with incoming delivery quantities, column 4, lines 40-44, wherein a delivery suggestion information is determined, i.e., purchases shifted timewise, based upon demand time, demand quantity data, and ultimate delivery time, column 4, lines 45-54); and searching the at least one table for times at which the second running total is less than the first running total which is indicative of a risk of at least one of a supply shortage and a necessity of initiating supply (i.e., creation of a delivery suggestion information is determined, i.e., purchases shifted timewise, based upon demand time, demand quantity data, and ultimate delivery time, column 4, lines 45-54). In addition, the Examiner notes that Lucas has been cited for disclosing issuing an alert to a user when the risk of the at least one of a supply shortage and a necessity of initiating supply is determined, as discussed in the above rejection.